Supreme Court, U.S.
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No. 635

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

P. F. COLLIER & SON CORPORATION, ET AL.,
Petitioners

v.

FEDERAL TRADE COMMISSION

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

REPLY BRIEF OF PETITIONERS

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MACMILLAN, INC.

November 1970

PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

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The brief in opposition to the petition herein informs the Court, *without comment*,[1] of an important and relevant development occurring since the petition was filed. The brief states that the Federal Trade Commission in the September 29, 1970 issue of the Federal Register[2] gave notice of proposed legislative rule-making

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[1] p. 11, note 8.

[2] 35 C.F.R. 15164.

requiring an affirmative disclosure by door-to-door salesmen of all products.[3] The notice in the Federal Register invites the filing of data, views or arguments by January 12, 1971 and gives notice of the commencement of a public hearing one week later.

The affirmative requirements provision contemplated by the proposed Rule is virtually identical with the one in the Order which petitioners have asked this Court to review. The petition herein urged that the affirmative disclosure requirement imposed on petitioners, and no one else, was unfair, arbitrary, discriminatory, a patent abuse of agency discretion, and constituted a failure to fashion remedies in an even-handed manner. The validity of that position is now more clearly evident from the announced rule-making proceeding.

The language in the Order and in the proposed Rule is virtually the same:

Affirmative Disclosure Requirement in the Order (Paragraph 3)	Affirmative Disclosure Requirement in the Proposed Rule (Paragraph 5(g))
". . . to disclose at the time admission is sought into the home, office or other establishment of the prospective purchaser or purchasers that the person making the call is respondent's salesman and is soliciting the sale of respondent's merchandise."	". . . to clearly, affirmatively and expressly reveal, at the time seller initially contacts the buyer or prospective buyer, and before making any other statement or asking the buyer any question, that the purpose of the contact is to effect a sale, stating the goods or services which the seller has to offer."

[3] 35 C.F.R. 15165 "All persons, firms, corporations, or others engaged in door-to-door sales, in commerce, as 'commerce' is defined in the Federal Trade Commission Act, will be subject to the requirements of any Trade Regulation rule promulgated in the course of this proceeding."

Petitioners submit that this Court should grant the writ of certiorari if for no other reason than to strike paragraph 3 of the Order, and thus place petitioners on an equal footing with their encyclopedia competitors, pending the outcome of the rule-making proceeding.

Respectfully submitted,

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